

REMARKS

Claims 1 to 18 have been withdrawn. Claims 19 to 34 are under consideration.

In response to the Office Action, Applicants have amended claims 19 to 30. Support for the amendments are found throughout the specification, specifically at page 4, lines 25-32, at page 5, line 36, and at pages 7 to 10, Examples 1-4. As such, no new matter has been added and entry of the amendments is respectfully requested.

I. REJECTIONS UNDER 35 U.S.C. §112

The rejection of claims 19 to 34 under 35 U.S.C. §112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The grounds for rejection are set forth in the Office Action at page 5.

In particular, the Examiner asserts that “it is not clear to which dimension (i.e. length, width or diameter) Applicant’s claims are directed.” Applicants have amended claims 19, and 26 to 30 to further clarify that the particle size is “in width.”

The Examiner further asserts that there is insufficient antecedent bases for the limitation in claims 20 to 30 because “it is unclear which particle size limitation recited in the independent claim 19 (i.e. (a) or (b)) is being further defined.” Without acquiescing to the propriety of the rejection, but to further prosecution, Applicants have amended claim 19 to recite that the “solids have been jet milled (a) to an average crystal length of less than 150  $\mu\text{m}$  and an average crystal width of less than 40  $\mu\text{m}$ , and (b) to a particle size distribution having at least 67 wt% of said solids have a size of 4.6-88 $\mu\text{m}$  in width.”

Thus, in view of the amendments, claims 19 to 34 are clear and definite. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph be withdrawn.

II. REJECTION UNDER 35 U.S.C. §102(b)

The rejection of claims 19, and 24 to 32 under 35 U.S.C. §102(b) as allegedly unpatentable over US 5,190,764 (Chiba et al.) is respectfully traversed. The grounds for rejection are set forth in the Office Action at pages 6-8.

Anticipation requires the disclosure in a single prior art reference of each element of claim under consideration (*In re Spada*, 15 USPQ 2d 1655 (Fed. Cir. 1990), *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990).

Chiba et al. fail to teach or suggest claims 19, and 24 to 32. For example, Chiba et al. do not describe a jet milled phosphoroamido(di)thioate solid with an average crystal length of less than 150  $\mu\text{m}$  and an average crystal width of less than 40  $\mu\text{m}$ . Claims 24 to 32 each ultimately depend from claim 19 and include every limitation thereof. As such, Applicants respectfully submit that Chiba et al. do not anticipate claims 19, and 24 to 32 and request that the rejection under 35 U.S.C. § 102(b) be withdrawn.

### III. REJECTION UNDER 35 U.S.C. §103

The rejection of claims 19 to 34 under 35 U.S.C. §103(a) as allegedly unpatentable over US 5,190,764 (Chiba et al.) is respectfully traversed. The grounds for rejection is set forth in the Office Action at pages 8-10.

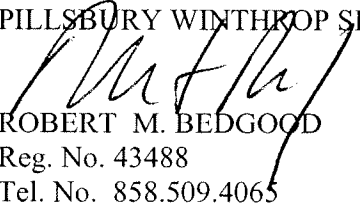
Chiba et al. fail to teach or suggest claims 19 to 34. For example, Chiba et al. do not teach or suggest a jet milled phosphoroamido(di)thioate solid with an average crystal length of less than 150  $\mu\text{m}$  and an average crystal width of less than 40  $\mu\text{m}$ . Claims 20 to 34 each ultimately depend from claim 19 and include every limitation thereof. As such, Applicants respectfully submit that Chiba et al. do not teach or suggest claims 19 to 34 and request that the rejection under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

  
ROBERT M. BEDGOOD

Reg. No. 43488

Tel. No. 858.509.4065

Fax No. 858 509.4010

Date: May 12, 2009  
12255 El Camino Real, Suite 300  
San Diego, CA 92130-4088  
(619) 234-5000

---

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10\***

(When using Express Mail, the Express Mail label number is *mandatory*; Express Mail certification is *optional*.)

I hereby certify that, on the date shown below, this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.